



## **THE ELECTIONS IN BOSNIA AND HERZEGOVINA**

**14 SEPTEMBER 1996**

### **SECOND STATEMENT OF THE CO-ORDINATOR FOR INTERNATIONAL MONITORING (CIM)**

It was indicated in the preliminary statement issued by the CIM on September 16 that the election day went technically well, but that the general climate in which the elections took place was in some cases below the minimum standards of the OSCE Copenhagen Commitments. The problems associated with registration, the media, the campaign, and freedom of movement were assessed as serious shortcomings to the overall process, though there was no pattern of recurring infractions or organisational incompetence that seriously compromised election day. The CIM emphasised that the elections, although characterised by imperfections, took place in such a way that they provide a first and cautious step for the democratic functioning of the governing structures of Bosnia and Herzegovina. In this context, however, the report drew special attention to the functioning of the common institutions and the need to ensure before certification the strict adherence to the constitutional arrangement agreed in Dayton and the spirit of 7.9 of the Copenhagen Commitments, requiring that candidates who obtain the necessary number of votes required by law are duly installed in office, and are permitted to remain in office until their term expires.

This second statement of the CIM is based on further analysis of more than 4000 forms and reports on election day, handed in by the long- and short term observers, and the preliminary observations of approximately 60 observers covering the counting and appeals process, which are both essential and integral parts of the complete election cycle.

The analysis confirms and substantiates the basis for all the preliminary conclusions, made in the statement of the CIM on September 16.

The CIM holds that the complex counting process is characterised by slowness, confusion, imperfections and serious problems in some individual cases. At this stage, the CIM's view is that these imperfections and irregularities are not of sufficient magnitude to affect the overall outcome of the elections.

The CIM wishes to elaborate upon his preliminary statement, make some preliminary observations of the counting and appeals process, and formulate some recommendations for the municipal elections.

## 1. ELECTION DAY

On the basis of all observation forms received from nearly all obstinas, the figure of 97% of polling stations where the voting process was conducted properly, is confirmed. The evaluation and conclusions of the CIM for election day are therefore substantiated on the basis of a more representative sample. A final statistical analysis of the observations on election day, including a regional profile, can be found in Annex 1.

The over 4000 reports confirm that there were significant difficulties with the voters list and an insufficient number of absentee polling stations. Especially displaced persons and refugees were confronted with the problems reported on election day.

This can be illustrated with the following observations:

- ❑ The insufficient number of absentee polling stations caused in some areas long queues, confusion and additional crowd control problems.
- ❑ Voters crossing the IEBL in buses did not have access to the LECs and could not resolve the difficulties with the FVLs. The Electoral Appeals Subcommittee concludes, that, although these violations were not of a scale to affect the results of any of the September 14 elections, they would, if repeated, very likely affect the municipal elections.

The CIM therefore recommends these deficiencies to be remedied before the municipal elections as a matter of urgency.

The CIM also reiterates his observation that Article 8 of the PEC Rules and Regulations was not followed in practice.<sup>1</sup> Observers confirmed the extremely limited number of voters crossing the IEBL, which cast a shadow over a voting day without major incidents.

In preparation of the municipal elections all necessary efforts will have to be made by the authorities, the OSCE and the other international organisations concerned to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person. This includes adequate international presence and security guarantees, and the generation of a climate in which the voters can cross the IEBL without fear of intimidation of their personal safety. Only under these circumstances can the municipal elections be held successfully.

The preliminary statement of the CIM referred to some possible reasons for the lack of movement across the IEBL on election day. The CIM concludes that whatever the motivations might have been, the Dayton principle of freedom of movement was only met to a limited degree.

## 2. THE COUNTING PROCESS

The counting process is observed by approximately 60 observers and long term staff members. The observers report that the counting process is carried out properly in the majority of counting centres, where procedures were followed in a secure manner, and figures for results were recorded accurately.

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<sup>1</sup> Art 8: Every effort will be made by OSCE and the other organisations concerned to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person.

These positive observations are in part overshadowed by reports of several problems and serious irregularities in some counting centres.

The CIM is concerned with the decision to publicly announce provisional results at an early moment. This seemed more inspired by extra-electoral reasons than by the respect for proper procedures. Moreover, the reconciliation process is characterised by delays and confusion, and this easily jeopardises the public credibility of the counting process.

Observers have reported a substantial amount of minor problems, related to the slowness of the counting process (especially in the RS due to counting interruption on Sunday) and confusion in the warehouse (especially in the earlier stages) and the tabulation centre.

A relatively limited number of reports indicated that sufficient security arrangements were lacking and that some counting centres were not adequately trained.

Serious violations were reported in a number of cases. In Velika Kladusa, Mrkonjic Grad and Kotor Vares ballots cast for opposition parties were spoiled. Violations in a polling station in Kozluk and in one of the military voting stations were so severe that the EASC recommend that the results from these polling stations be annulled. Such cases illustrate the lack of democratic spirit in some parts of the country.

The CIM is concerned with the serious nature of these irregularities and the relatively high number of invalid ballots. While it is difficult to establish all the exact reasons, lack of voter education, political motivations (especially of those who voted across the IEBL), and sometimes deliberate spoiling of valid ballots seem to have played a role.

The CIM remains also concerned with a potential counting problem related to the voting register. In his first statement, the CIM has referred to the urgent need for the establishment of a thoroughly revised and current voter register, which instils the necessary confidence that all qualified voters could vote once and only once. The theoretical possibility of double voting by refugees could have had consequences for the integrity of the count especially in lower level elections if specific cases can be substantiated. No reports of this type of irregularity were reported to the CIM. However, the CIM is not in a position to exclude the possibility of double voting completely. The CIM recognises the decision on this matter by the Elections Appeals Subcommission.

The CIM reiterates his recommendation for a revised voter register in order to exclude any suspicion of double voting in the future.

### **3. THE APPEALS PROCESS.**

A considerable amount of count related complaints and appeals are adjudicated by the Electoral Appeals Sub-commission (EASC).

The CIM has reviewed the count related appeals to the EASC and overall supports the judgements made. The CIM underlines the importance of the rulings on the freedom of movement and the double voting issues as already referred to, and stresses the need to respect the important implications of these rulings for the timing of the municipal elections.

Before election day, the EASC issued 54 decisions, of which 2 decisions were interim judgements, and 7 Advisory Opinions. 64% of the submitted complaints/appeals were dismissed/denied by the EASC. The number of cases related to the campaign was the largest, nine of which were related to violence. The number of registration related cases was also substantial. THE EASC rulings confirm the critical analysis by the CIM regarding these elements of the electoral process.

The CIM evaluates positively the transparent and relatively simple EASC procedures for lodging complaints, and recommends greater emphasis in voter education regarding these procedures for the municipal elections.

The CIM considers that the Appeals Mechanism to be installed for future elections in Bosnia and Herzegovina could gain further credibility by strengthening its activities in terms of scope and effectiveness in ensuring the respect of electoral rules and regulations, and by ensuring a larger degree of autonomy from other bodies responsible for the organisation of the elections, including the election commission.

#### **4. OBSERVATION OF RESULTS**

The CIM evaluated the context of these elections critically in his first statement. Fear and need for security were the driving factors in the pre-electoral period. The people of Bosnia and Herzegovina have thus far had limited opportunities to think and act freely and differently, to travel and associate without fear, to hear and reflect upon different points of view.

The democratic nature of multiparty elections is related to the extent to which a multitude of viewpoints is expressed in the newly elected bodies. Pluralism is the essence of democracy. The amount of pluralism during the electoral cycle was less than could be expected under a system of proportional representation. Pluralism includes a serious role for opposition parties, which may never be marginalised.

The further development of Bosnia and Herzegovina in terms of conflict resolution and democracy building will have to ensure that the very thin space available at present for tolerance of all viewpoints is widened and extended to all governing bodies of Bosnia and Herzegovina.

#### **5. CONSTITUTIONAL ARRANGEMENTS AGREED IN DAYTON AND 7.9 OF THE COPENHAGEN COMMITMENTS.**

The CIM reiterates his concern that the conduct of certain parties, particularly the SCD, throughout the campaign, has not been made in the spirit of Dayton.

The two entities of Bosnia and Herzegovina are bound by the constitutional arrangements agreed in Dayton. These arrangements include the sovereignty and territorial integrity of Bosnia Herzegovina. However, the bodies to be elected from the RS are also functioning in the framework of the constitution of the RS. In the political campaign context described above, and taking into account the arduous process of adaptation of the RS Constitution, certification of the elections and instalment in office of elected persons (7.9 Copenhagen Commitments) can logically only take place if the RS Constitution is adapted. This adaptation should correspond to all the clauses related to the respect for the sovereignty and territorial integrity of Bosnia and Herzegovina agreed in Dayton. The preparation of the aftermath of the

elections is a prerequisite for the successful outcome of the elections itself and thus requires much more attention, as is illustrated by the recent problems regarding the preparation of the meeting of the three members of the Presidency of Bosnia and Herzegovina.

In that context, the CIM reiterates his request to the Head of the OSCE Mission, as Chairman of the PEC, to address this issue before certification.

## **6. MUNICIPAL ELECTIONS**

The CIM underlines that elections do not involve only one day and are not held for their own sake. They are part of a long term process which aims at reconciliation and a democratic society as stipulated in the Dayton Peace Agreement. In order to achieve these goals, the elections must be perceived by the people of Bosnia and Herzegovina as part of a wider process of genuine democratic change, involving rule of law and the construction of civil society.

The municipal elections will be the next test. The date of these elections should be dependent on the fulfilment of the basic technical and political criteria and conditions, mentioned in the different statements of the CIM, laid out in the Dayton Agreement and specified in the decision of the PEC to postpone the municipal elections. A good preparation cannot and should not happen overnight. The necessary conditions cannot be met in this calendar year.

All long term observers of the office of the CIM, without exception, have reported that the situation on the ground does not allow for municipal elections to be held in November.

The CIM has already underlined the need for a thorough and structural re-evaluation of the registration process. Furthermore, it is essential that an updated voters list is produced, and a climate is generated in which the voters feel confident and secure to cross the IEBL. This requires a commitment from all the political actors in Bosnia and Herzegovina as well as maximum security guarantees and presence of the international community for a substantial time to come.

At this stage, no clarity exists as to the "Copenhagen Commitment 7.9" with regard to the municipal elections. The CIM considers it not acceptable that municipal elections are organised under these circumstances in which neither de facto nor de jure instalment of elected representatives in office can be assured.

Municipal elections should be preceded by a comprehensive and independent voter education program, covering both urban and rural areas and informing the electorate of their political rights and explaining the election procedures. Furthermore, it is essential that lessons learned from the experience of the Mostar and the 14th September elections are taken into account.

The elements mentioned above must be taken into account in order for the upcoming municipal elections to be a positive step in the political and democratic development of Bosnia and Herzegovina.

Distributed at the request  
of the Representative  
of the Chairman-in-Office

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